

2009 DRAFTING REQUEST

Bill

Received: 09/04/2008

Received By: agary

Wanted: As time permits

Identical to LRB:

For: Gary Sherman (608) 266-7690

By/Representing: Judy Kelly

This file may be shown to any legislator: NO

Drafter: agary

May Contact:

Addl. Drafters:

Subject: Transportation - motor vehicles
Transportation - traffic laws

Extra Copies: EVM, RNK, MGG

Submit via email: YES

Requester's email: Rep.Sherman@legis.wisconsin.gov

Carbon copy (CC:) to: aaron.gary@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Allowing disabled persons to operate lightweight utility vehicles on highways to access hunting or fishing areas.

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 09/04/2008	bkraft 09/05/2008		_____			
/1			jfrantze 09/05/2008	_____	sbasford 09/05/2008		
/2	agary 11/03/2008	bkraft 11/03/2008	mduchek 11/03/2008	_____	lparisi 11/03/2008		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/3	agary 11/07/2008	bkraft 11/07/2008	phenry 11/10/2008	_____	lparisi 11/10/2008	lparisi 11/13/2008	

FE Sent For: **NONE**

<END>

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13 bjk 11/7 11/10/08 11/10/08 11/10/08 MD

FE Sent For:

<END>

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/1		1/2 bjk 11/3	jfrantze 09/05/2008 11/3 MJD	_____	sbasford 09/05/2008		

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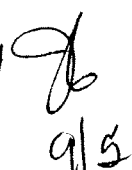
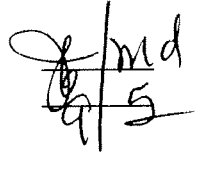
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/?	agary	/1 bjk 9/4	 9/5	 9/5			

FE Sent For:

<END>

Gary, Aaron

From: Kelly, Judy
Sent: Wednesday, September 03, 2008 4:05 PM
To: Gary, Aaron
Subject: RE: Lightweight utility vehicles

Thanks!!

From: Gary, Aaron
Sent: Wednesday, September 03, 2008 4:03 PM
To: Kelly, Judy
Subject: RE: Lightweight utility vehicles

Great. I'll redraft it for 2009, with that change.

Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

9/4
I also made some
non-substantive
clean up changes.
ARG

From: Kelly, Judy
Sent: Wednesday, September 03, 2008 4:00 PM
To: Gary, Aaron
Cc: Tribys, Eleanora
Subject: RE: Lightweight utility vehicles

Good memory, Aaron. I had forgotten we did this..

It needs to say, in the second paragraph, "may not travel more than five miles from the person's home".

The person for whom we are doing this did not want it limited to one mile. I believe he thinks that this could work for others also and the one-mile limit might be problematic.

Thanks very much.

Judy

From: Gary, Aaron
Sent: Wednesday, September 03, 2008 3:53 PM
To: Kelly, Judy

09/03/2008

Subject: Lightweight utility vehicles

Hi Judy,

Following up on our conversation a few minutes ago, I think Brett and I did in fact complete a bill draft last session, though it probably was too late for you to use.

If the attached draft meets with your approval, I can redraft it for the 2009 session.

Please let me know if you have any questions.

Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

RESEARCH APPENDIX - Draft Transfer/Copy Request Form

- Atty's please complete this form and give to Mike Barman

(Request Made By: ARG) (Date: 9/4/08)



Please transfer the drafting file for
2007 LRB 4020 to the drafting file
for 2009 LRB 0095

The final version of the 2007 draft and the final Request Sheet will copied on yellow paper, and returned to the original 2007 drafting file. A new cover sheet will be created/included listing the new location of the drafting file's "guts".

For research purposes, because the 2007 draft was incorporated into a new 2009 draft, the complete drafting file will be transferred, as a separate appendix, to the new 2009 drafting file. This request form will be inserted into the "guts" of the 2009 draft. If introduced, the appendix will be scanned/added to the electronic drafting file folder.

---OR---

Please copy the drafting file for
2009 LRB (include the version) and place it in the
drafting file for 2009 LRB

For research purposes, because the original 2009 draft was incorporated into another 2009 draft, the original drafting file will be copied on yellow paper (darkened/auto centered/reduced to 90%) and added, as a separate appendix, to the new 2009 drafting file. This request form will be inserted into the "guts" of the new 2009 draft. If introduced the appendix will be scanned/added to the electronic drafting file folder.

The original drafting file will then returned, intact, to its folder and filed. For future reference, a copy of the transfer/copy request form will also be added to the "guts" of the original draft.

freeways, and expressways, except to cross a state trunk highway or county trunk highway.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 349.05 of the statutes is created to read:

349.05 Use of lightweight utility vehicles on highways by persons with physical disabilities. (1) In this section:

(a) "Forest road" means a public road within a county or state forest which is open and used for travel and which is not a state trunk highway or county trunk highway or a town road.

(b) "Lightweight utility vehicle" has the meaning given in s. 23.33 (11m) (a) 2.

(c) "Political subdivision" means a city, village, town, or county.

(d) "State agency" means an office, commission, department, or independent agency in the executive branch of state government.

(e) "Town road" means a road under the jurisdiction, for maintenance purposes, of a town.

(2) Notwithstanding any provision in s. 23.33 (11m), no state agency or political

subdivision of this state may prohibit a person from operating a lightweight utility

vehicle on any town roads and any forest roads to access any hunting or fishing areas if all of

the following apply:

(a) The person holds a Class A or Class B permit under s. 29.193 (2) and operates the lightweight utility vehicle only for the purposes of hunting or fishing or is otherwise engaging in an activity authorized by the permit.

(b) The person travels no more than one mile from his or her home.

1 (c) The person carries no more than one passenger on the lightweight utility
2 vehicle. ✓

3 (d) The person operates the lightweight utility vehicle only during hours of
4 daylight. ✓

5 (3) A person operating a lightweight utility vehicle in compliance with sub. (2)
6 may not operate the lightweight utility vehicle on state trunk highways, county
7 trunk highways, expressways, or freeways, except the person may cross state trunk

8 highways and county trunk highways if the crossing is done in the most direct
9 manner practicable ^{of} ^{and} is made at a place where no obstruction prevents a quick and
10 safe crossing ^{and if} ^{the operator} stops the lightweight utility vehicle prior to the
11 crossing and yields the right-of-way to other vehicles, pedestrians, and electric
12 personal assistive mobility devices using the highway.

13 (END) ✓

all of the
following
apply ^{to} (a) ✓

Barman, Mike

From: Kelly, Judy
Sent: Tuesday, September 16, 2008 3:21 PM
To: Barman, Mike
Subject: LRB drafts

Hi Mike,

Would you please send to me copies of the following new drafts by e-mail.

LRB 0064
LRB 0065
LRB 0095
LRB 0138

Thanks.

Judy Kelly
Legislative Aide to
Rep. Gary Sherman

Barman, Mike

From: Barman, Mike
Sent: Wednesday, September 17, 2008 8:07 AM
To: Kelly, Judy
Cc: Rep.Sherman
Subject: PDF's Attached (requested by Judy)

Attachments: 09-0064/1; 09-0064/1dn; 09-0065/1; 09-0095/1; 09-0138/1; 09-0138/1dn



09-00641.pdf (13
KB)



09-00641dn.pdf
(12 KB)



09-00651.pdf (13
KB)



09-00951.pdf (13
KB)



09-01381.pdf (16
KB)



09-01381dn.pdf (6
KB)

Mike Barman (Senior Program Assistant)
State of Wisconsin - Legislative Reference Bureau
Legal Section - Front Office
1 East Main Street, Suite 200, Madison, WI 53703
(608) 266-3561 / mike.barman@legis.wisconsin.gov

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

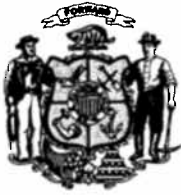
LRB

Mc w/ Judy Kelly 6-7690

10/31

LRB - 0095

- add "national forest" to forest road definition
- discussed concerns/problems with this; she wants it anyway



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0095/02

ARG:bjk:de

in 11/3

stage RMR

2009 BILL

D-Note

SA ✓

regen.

1 AN ACT *to create* 349.05 of the statutes; **relating to:** operation of lightweight
2 utility vehicles on certain highways by persons with physical disabilities to
3 access hunting and fishing areas. ✓

Analysis by the Legislative Reference Bureau

Current law defines a lightweight utility vehicle as an engine-driven vehicle having a gross weight of more than 700 pounds but not more than 1,999 pounds that is designed to travel on four or more low-pressure tires, is equipped with a cargo area, and is used primarily off a highway. The Department of Natural Resources, in conjunction with the Department of Transportation, oversees a lightweight utility vehicle pilot program to study the use of lightweight utility vehicles on trails and roadways used by all-terrain vehicles.

This bill authorizes a person who holds a Class A or Class B hunting permit for persons with physical disabilities to operate a lightweight utility vehicle on town roads and forest roads for travel to a hunting or fishing area. A person with a physical disability may bring one passenger with him or her on the lightweight utility vehicle, may not travel more than five miles from the person's home, and may only operate the lightweight utility vehicle during hours of daylight. The bill prohibits the operation of lightweight utility vehicles on state trunk highways, county trunk

BILL

highways, freeways, and expressways, except to cross a state trunk highway or county trunk highway.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 ✓ ✓
SECTION 1. 349.05 of the statutes is created to read:

2 **349.05 Use of lightweight utility vehicles on highways by persons with**
3 **physical disabilities.** (1) In this section:

4 (a) "Forest road" means a public road within a county ^{forests} or state forest ^{or national forest} which is ^{that} is
5 open and used for travel and which ^{that} is not a state trunk highway or county trunk
6 highway or a town road.

7 (b) "Lightweight utility vehicle" has the meaning given in s. 23.33 (11m) (a) 2.

8 (c) "Political subdivision" means a city, village, town, or county.

9 (d) "State agency" means an office, commission, department, or independent
10 agency in the executive branch of state government.

11 (e) "Town road" means a road under the jurisdiction, for maintenance purposes,
12 of a town.

13 (2) Notwithstanding s. 23.33 (11m), no state agency or political subdivision
14 may prohibit a person from operating a lightweight utility vehicle on any town road
15 or forest road to access any hunting or fishing area ^{where hunting or fishing is allowed} if all of the following apply:

16 (a) The person holds a Class A or Class B permit under s. 29.193 (2) and
17 operates the lightweight utility vehicle only for the purposes of hunting or fishing or
18 is otherwise engaging in an activity authorized by the permit.

19 (b) The person travels no more than 5 miles from his or her home.

20 (c) The person carries no more than one passenger on the lightweight utility
21 vehicle.

BILL

1 (d) The person operates the lightweight utility vehicle only during hours of
2 daylight.

3 (3) A person operating a lightweight utility vehicle in compliance with sub. (2)
4 may not operate the lightweight utility vehicle on state trunk highways, county
5 trunk highways, expressways, or freeways, except the person may cross state trunk
6 highways and county trunk highways if all of the following apply:

7 (a) The crossing is done in the most direct manner practicable and is made at
8 a place where no obstruction prevents a quick and safe crossing.

9 (b) The operator stops the lightweight utility vehicle prior to the crossing and
10 yields the right-of-way to other vehicles, pedestrians, and electric personal assistive
11 mobility devices using the highway.

12

(END)



D-Note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0095/2dn

ARG:.....

Lbjk

Date

ATTN: Judy Kelly

As requested, the attached draft adds "national forest" to the definition of "forest road" in created s. 349.05 (1) (a). As discussed, I do not believe this change will have any legal effect. In my view, unless a state or local government has acquired property rights in federal land, the state or local government lacks authority to either dictate the use of federal land or require the federal government to provide authorization of specified uses. In my view, under the supremacy clause of the U.S. Constitution and the principle of federal sovereignty, the federal government has exclusive authority to determine what vehicles may be operated, and where they may be operated, within a national forest.

Based upon comments from our DNR drafter, I also made a technical change in the attached draft in created s. 349.05 (2) (intro.). Please advise if you have concerns about this change. I also note that the draft would not apply to a person who holds only a fishing license. Do you want created s. 349.05 (2) (a) of the draft to also apply to persons who hold a fishing license under s. 29.193 (3) (b) or (c) or (3m)?

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0095/2dn
ARG:bjk:md

November 3, 2008

ATTN: Judy Kelly

As requested, the attached draft adds "national forest" to the definition of "forest road" in created s. 349.05 (1) (a). As discussed, I do not believe this change will have any legal effect. In my view, unless a state or local government has acquired property rights in federal land, the state or local government lacks authority to either dictate the use of federal land or require the federal government to provide authorization of specified uses. In my view, under the supremacy clause of the U.S. Constitution and the principle of federal sovereignty, the federal government has exclusive authority to determine what vehicles may be operated, and where they may be operated, within a national forest.

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E-mail: aaron.gary@legis.wisconsin.gov



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0095/03

ARG:bjk:nd

11/5
Hc w/ Judy Kelly 6-7690
Per B-Note, make fishing license change

in 11/7
stays

RMR

2009 BILL

SAV

region

- 1 AN ACT *to create* 349.05 of the statutes; **relating to:** operation of lightweight
- 2 utility vehicles on certain highways by persons with physical disabilities to
- 3 access hunting and fishing areas.

Analysis by the Legislative Reference Bureau

Current law defines a lightweight utility vehicle as an engine-driven vehicle having a gross weight of more than 700 pounds but not more than 1,999 pounds that is designed to travel on four or more low-pressure tires, is equipped with a cargo area, and is used primarily off a highway. The Department of Natural Resources, in conjunction with the Department of Transportation, oversees a lightweight utility vehicle pilot program to study the use of lightweight utility vehicles on trails and roadways used by all-terrain vehicles.

This bill authorizes a person who holds a Class A or Class B hunting permit for persons with physical disabilities to operate a lightweight utility vehicle on town roads and forest roads for travel to a hunting or fishing area. A person with a physical disability may bring one passenger with him or her on the lightweight utility vehicle, may not travel more than five miles from the person's home, and may only operate the lightweight utility vehicle during hours of daylight. The bill prohibits the operation of lightweight utility vehicles on state trunk highways, county trunk

* or who holds an annual or temporary fishing license for persons with disabilities

BILL

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2 **349.05 Use of lightweight utility vehicles on highways by persons with**

3 **physical disabilities.** (1) In this section:

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5 national forest that is open and used for travel and that is not a state trunk highway
6 or county trunk highway or a town road.

7 (b) "Lightweight utility vehicle" has the meaning given in s. 23.33 (11m) (a) 2.

8 (c) "Political subdivision" means a city, village, town, or county.

9 (d) "State agency" means an office, commission, department, or independent
10 agency in the executive branch of state government.

11 (e) "Town road" means a road under the jurisdiction, for maintenance purposes,
12 of a town.

13 (2) Notwithstanding s. 23.33 (11m), no state agency or political subdivision
14 may prohibit a person from operating a lightweight utility vehicle on any town road
15 or forest road to access any area where hunting or fishing is allowed if all of the
16 following apply:

17 (a) The person holds a Class A or Class B permit under s. 29.193 (2) and
18 ^{the person} operates the lightweight utility vehicle only for the purposes of hunting or fishing or
19 is otherwise engaging in an activity authorized by the permit.

20 (b) The person travels no more than 5 miles from his or her home.

a license issued under s. 29.193(3)(b) or (c) or a license issued under s. 29.193(3m) based upon the submission of evidence specified in s. 29.193(3)(b) or (c)

Barman, Mike

From: Barman, Mike
Sent: Tuesday, November 11, 2008 7:59 AM
To: Kelly, Judy
Cc: Rep.Sherman
Subject: LRB 09-0095/3 (attached - requested by Judy)

Attachments: 09-0095/3



09-00953.pdf (13
KB)

Mike Barman (Senior Program Assistant)
State of Wisconsin - Legislative Reference Bureau
Legal Section - Front Office
1 East Main Street, Suite 200, Madison, WI 53703
(608) 266-3561 / mike.barman@legis.wisconsin.gov

From: Kelly, Judy
Sent: Monday, November 10, 2008 3:00 PM
To: Barman, Mike
Subject: RE: LRB 09-0586/1 (attached - requested by Judy)

Thanks, Mike. If you would be so kind, I also need LRB 0095/3. Thanks.

Judy

From: Barman, Mike
Sent: Monday, November 10, 2008 2:47 PM
To: Kelly, Judy
Cc: Rep.Sherman
Subject: LRB 09-0586/1 (attached - requested by Judy)

<< File: 09-0586/1 >>

Mike Barman (Senior Program Assistant)
State of Wisconsin - Legislative Reference Bureau
Legal Section - Front Office
1 East Main Street, Suite 200, Madison, WI 53703
(608) 266-3561 / mike.barman@legis.wisconsin.gov

From: Kelly, Judy
Sent: Monday, November 10, 2008 1:40 PM
To: Barman, Mike
Subject: LRB 0586

Hi Mike,
May I get an electronic copy of LRB 0586? Thanks.

Judy Kelly
Legislative Aide to
Rep. Gary Sherman

Parisi, Lori

From: Sherman, Gary
Sent: Thursday, November 13, 2008 10:35 AM
To: LRB.Legal
Cc: Tribys, Eleanora; Kelly, Judy
Subject: Draft Review: LRB 09-0095/3 Topic: Allowing disabled persons to operate lightweight utility vehicles on highways to access hunting or fishing areas.

Please Jacket LRB 09-0095/3 for the ASSEMBLY.